

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DANIEL FAERFERS and KATJA
FAERFERS,

Plaintiff,

v.

CAVIAR CREATOR, INC. ET AL.,

Defendant.

No. 2:04-cv-02690

**ORDER DISMISSING PLAINTIFFS'
COMPLAINT AND CLOSING THIS CASE**

The Court has attempted numerous times without success to contact pro se Plaintiffs Daniel and Katja Faerfers ("Plaintiffs"). On September 13, 2013, this Court issued a minute order, ordering Plaintiffs to show cause as to why this case should not be dismissed for a lack of prosecution under Federal Rule of Civil Procedure 41(b). Plaintiffs have not complied.

"The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted." Link v. Wabash R. Co., 370 U.S. 626, 629 (1962). The Ninth Circuit has set forth five factors that a district court must consider before dismissing a case for failure to prosecute:

[1] the court's need to manage its docket, [2] the public interest in expeditious resolution of litigation, [3] the risk of prejudice to defendants from delay, [4] the policy favoring disposition of cases on their merits.

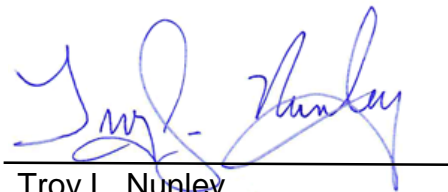
1 Morris v. Morgan Stanley & Co., 942 F.2d 648, 651 (9th Cir. 1991). For the reasons set forth
2 below, this Court finds that these factors weigh in favor of dismissing this case.

3 First, the Court has an inherent need to manage its docket. This case has been pending
4 since 2004. Plaintiffs have not appeared or filed anything in this case since 2010. As such, the
5 Court finds that this factor weighs in favor of dismissing this case. Second, the public's interest
6 in expeditious resolution of litigation also favors dismissing this case because the Court is
7 wasting its time and resources when Plaintiffs cannot be reached and have not responded on any
8 matter in the last three years. Third, Plaintiffs' repeated failure to respond to correspondence
9 prevents Defendants Caviar Creator Inc., et al. from seeking some sort of resolution. Finally,
10 although the disposition of cases based on their merits is preferred, it is unlikely that such is an
11 option here. It is unlikely that Plaintiffs are residing within the United States. Plaintiffs last
12 known address was in Germany, and all mail that has been sent to that address has been returned
13 to sender labeled "Not Deliverable." Furthermore, Plaintiffs' former counsel could not supply the
14 Court with any additional contact information for Plaintiffs.

15 Thus, for the aforementioned reasons, the Court finds that all four factors support
16 dismissing Plaintiffs' case. As such the Court hereby DISMISSES all pending claims against
17 Defendants in this action. This case is CLOSED.

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19 IT IS SO ORDERED.

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21 Dated: September 30, 2013

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Troy L. Nunley
United States District Judge